



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
Region 1 – New England
5 Post Office Square, Suite 100
Boston, MA 02109-3912

August 21, 2013

By First Class Mail and
E-mail to dwebbert@johnsonwebbert.com

David G. Webbert, Esq.
Johnson & Webbert, LLP
160 Capitol St., Suite 3
P.O. Box 79
Augusta, ME 04332-0079

Re: McCue v. Bradstreet
U.S. District Court, District of Maine, Civil Action No. 1:12-00204-JAW

Dear Mr. Webbert:

This letter responds to your subpoena dated August 16, 2013 in the matter captioned above. The subpoena commands the "United States Department of Environmental Protection" to produce certain documents relating to Denny Dart's work connected with Mr. McCue and Country Acres Farms, Inc. For the purposes of this response, the U.S. Environmental Protection Agency (EPA) will assume the Agency is the intended recipient of the subpoena. EPA is not a party to this case.

As you discussed with Tim Williamson of my office on August 20, 2013, regulations at 40 C.F.R. §§ 2.401 - 2.406 govern EPA's response to subpoenas in litigation where EPA is not a party concerning information EPA employees have acquired in the course of performing official EPA duties. Specifically, section 2.405 requires that I make a determination whether complying with your subpoena according to its terms is clearly in the interest of the Agency. The purpose of these regulations is to ensure that employees' official time is used only for official purposes, to maintain the impartiality of EPA among private litigants, and to ensure that public funds are not used for private purposes.

After reviewing this matter, I have determined that compliance with your subpoena is not clearly in the interests of EPA. To permit compliance would create the appearance that EPA was taking sides in this matter. The cumulative effect of responding to such requests outside the framework of EPA's regular procedures for providing documents to the public could constitute a serious drain on EPA resources. Finally, as I understand you discussed with Mr. Williamson, it appears that providing the documentation you requested consistent with the Freedom of Information Act as discussed below will

address your needs. The Regional Administrator has agreed with the rationales supporting this finding. Accordingly, I hereby deny approval for EPA to respond to this subpoena according to its terms.

Again, as you discussed with Mr. Williamson, consistent with the requirements of 40 C.F.R. § 2.405, EPA will treat your subpoena for the documents as a request for documents under the Agency's Freedom of Information Act (FOIA) regulations, found at 40 C.F.R. Part 2, Subparts A and B. In responding to this FOIA request, EPA will produce any documents that are appropriate for release, if any are found which have not already been provided to you in response to your two previous FOIA requests. Please be aware that EPA may ask you to provide assurance of payment of the fees required under 40 C.F.R. § 2.120, including a \$25.00 fee for providing a certification of the documents if you require one. See § 2.120(c). EPA has assigned your FOIA request the control number EPA-R1-2013-009236, with a due date of September 18, 2013. You should use that control number in connection with any future inquiries concerning this request.

I understand that you have agreed with Michelle Giard Draeger, Assistant U.S. Attorney, not to seek enforcement of this subpoena provided EPA responds as provided under FOIA. Please contact Mr. Williamson at 617-918-1099 immediately if you decide to enforce the subpoena. If you have any other questions regarding this finding, please feel free to contact Mr. Williamson. If you have questions concerning the substance of your request, please contact Margery Adams, in the Legal Enforcement Office of the Region 1 Office of Environmental Stewardship, at 617-918-1733.

Sincerely,



Carl F. Dierker
Regional Counsel

cc: Cristeen Schena, FOIA Officer
Michelle Diard Draeger, AUSA
Jill Metcalf, EPA ORC
Denny Dart, EPA OES
Margery Adams, EPA OES



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

DRAFT: January 8, 2007
FINAL: February 6, 2007

SUBJ: Country Acre Farm, Inc., Dixmont, ME
PDES CAFO Inspection, Conducted January 6, 2007

FROM: Denny Dart, EPA Region I, Water Technical Unit

TO: file

I. Background Information

- A. Date, Time of inspection: Saturday, January 6, about 7:30 am to 11:00 am
- B. Weather Conditions: Drizzly, foggy, about 57 degrees F.
- C. U.S. EPA Representative: Denny Dart
- D. State Representative(s): None
- E. Facility Representative(s): Carl McCue, Owner
Mark Jordon, Employee
Dan Gantnier, of Diesel Dan's Repairs (207) 341-2662
- F. Phone number: Carl McCue, (207) 862-5290 (207) 862-2900
- G. Mailing Address: P.O. Box 758, Hampden, ME 04444
- H. Physical Address: Route 7, Dixmont, ME 04932
- I. Permit Number: ME0036821

II Purpose of Inspection

The purpose of the inspection was to verify findings of state inspectors, to assess whether a discharge of manure was occurring or imminent, and to determine whether the company was making adequate progress in complying with EPA's December 8, 2006, administrative order.

III Offsite Observations

On Saturday, January 6, the weather was drizzly and very foggy; the car thermometer reported an outside temperature of 57 degrees F. I saw some broken ice at and near the McCue farm. It had been raining for a couple of days, and the ground was wet and muddy. The streams in the area were full.

I arrived in Dixmont at about 7:30 am, and drove around the area, observing the location of the McCue farm relative to Martin Stream. The farm is several hundred yards uphill from the stream. From off-site, I observed that the barns and farm are close to the road on both sides. I saw two tractors or trucks go from the barns, across Rt 7, and up a road to the area I later learned to be the silage storage area. Several of the barns looked run down and there were piles of household trash in bags on the grounds. The parking lot was unpaved, rutted and muddy. I could smell cow urine from the car as I drove by.

IV Entry Procedures

At about 8:00 am, I parked at the farm and waited for someone with authority to allow entry. I spoke with one employee (who later gave his first name as Ruben) who said there was no manager on site who could let me in. At 8:20, Mark Jordan arrived in a truck. I showed him my identification and asked for entry. He called Carl McCue and gave me the phone. I identified myself and Mr. McCue said he would be there in about 25 minutes. Mr. Jordan then invited me to the break room in the milk house. Mark Jordan chatted for a few minutes, but was called back to work.

V Initial Conversation

About ten minutes later, a man came into the break room to talk with me. He gave his name only as "Diesel Dan." Dan said he owns Diesel Dan's Repair and does some work for Mr. McCue. He said he wanted to talk to me about Alan Hunter, of the Maine Department of Agriculture. Dan said McCue's farm is in this situation because Alan Hunter would not let them land-apply manure after December 1. Dan said they had conducted soil tests on McCue's fields. I asked who conducted the soil tests and when. Dan said Carl McCue and Mark Jordan had taken samples in the last few weeks and the results were back showing the fields hadn't been spread.

Dan said that in mid-November, they spread manure on land owned by Flood, and on some fields up the road behind Troy Center Road.

Dan said, "Alan Hunter is the trouble." He said Alan Hunter was yelling at Pete Ingraldi, who works for Mr. McCue. Dan said Pete's young son was in the tractor, and he wouldn't yell in front of his own kid. Dan said he was so upset by Alan Hunter's behavior he called Alan Hunter and told him not to threaten the farm workers, but to call Mr. McCue directly instead.

The subject turned back to land application. Dan explained that some farmers prefer liquid manure. Other farmers, if they plan to plow, prefer solid manure. Dan said that in November, he showed Mr. McCue around to lots of farms that needed manure. I asked the names of some of the farmers who had offered to take manure.

Todd Alan has about 160 acres of hay and his fields haven't been spread.
David Leavitt has about 100 acres of hay. He harrows and seeds other people's fields.
Ken Gould has about 100 acres in Etna.
McKenzie would take manure.
Kurt Davis farms Ron Biouac's land and would use manure.
Doug Woodard has about 100 acres for horses.

Dan said the only obstacle to spreading was Seth Bradstreet, the Commissioner. Dan said Bradstreet had a vendetta against McCue.

I asked whether they had a way to move manure. He said they had three new spreaders that they bought in the fall, and he said they bought a truck on Friday, January 5, that could haul manure. Dan added that a couple from New York had visited on Friday about investing in the farm.

At about 9:00 Carl McCue arrived with Mike Lima. Mike Lima told me Mr. McCue had hired him as a consultant a couple of days ago. He said he is from California, where he managed a 1000-cow dairy farm.

Carl McCue said the soil samples were back from the University of Maine and the results showed low phosphorus. I asked to look at the paperwork, and he offered to drive back to his office for it. Since that would have delayed the inspection by another hour, I asked him instead to fax or overnight mail the results to EPA.

Carl McCue gave a history of the situation. He said he tried to use the new lagoon last fall, but NRCS stopped him because of a leak. He pointed out that NRCS designed and built the lagoon. Mr. McCue got a loan for manure spreading equipment from Mr. Shepherd. He said he spent \$100K to buy a tractor and spreader. He said he bought it three days before Thanksgiving and they did lots of spreading. Then in late November, Department of Agriculture revoked his license. They refused a variance to spread in December, even though other farmers got variances. Alan Hunter said the variance was denied because he saw Mr. McCue spreading the same field twice. Mr. McCue said he was spreading mostly water that wasn't very potent. I asked whether he had sampled the manure he was spreading and he said he hadn't.

Dan said Alan Hunter said at license hearing that the lagoon had never been emptied. Dan said he showed pictures of the lagoon. He said that in early December, he and Mr. McCue drove Alan Hunter to all the fields where they hadn't yet spread, but the land application variance was still denied.

Carl McCue and Dan explained that Seth Bradstreet, the Commissioner and Alan Hunter's boss, rented 140 acres to Mr. McCue in the spring of 2006. Mr. McCue applied for federal money for lost crops, but Seth Bradstreet claimed he should get the payment. There was a hearing in Washington D.C. and McCue said he was awarded the money. After that Seth Bradstreet became Commissioner. I asked what Mr. McCue proposed to do to prevent another leak or overflow from the old lagoon. He said he had two offsite options he was working on. He had spoken with Tim LeVasseur at the Kennebunk Treatment Plant in Waterville, who was willing to take one 5000-gallon load per day. Mr. McCue said he had bought a truck the day before, on Friday, in order to be able to truck the

manure to the treatment plant. McCue said LeVasseur could take the 5000 gallons at a cost about \$3000. McCue said it would cost about \$400 per load for trucking. He saw this as an emergency measure because of the high cost.

Mr. McCue said he also had a million gallon lagoon he could rent from Carl Smith, who raises young stock in Newport. McCue said he had to arrange for insurance, but thought he could start trucking manure there on Monday, January 8. He said Carl Smith's lagoon would allow McCue to empty half of his own old lagoon, which has a capacity of two million gallons. McCue said with his 336 cows, he could get through the winter without using the new lagoon if he could get the old lagoon half empty. I asked why he wouldn't use the new lagoon for new manure, and he said NRCS wouldn't let him use the new lagoon.

Mr. McCue said it takes 180 days for 400 cows to produce 1 million gallons. I asked if the old lagoon was taking milk house waste. He said the 1500 to 2000 gallons per day of milk house waste was going to the lagoon. (I thought he said new lagoon, but this is unlikely since the milk house waste is piped to the old lagoon.)

Mr. McCue said he also has more than 1 million gallon capacity in the new 2 million gallon lagoon, if he could get permission to use it for manure. Dan told me the new lagoon is 10 feet deep and I verified later in the inspection that the new lagoon currently has six feet of freeboard.

I asked again why he wasn't using the new lagoon for manure and McCue said Dan Schmidt of NRCS told him he couldn't use the new lagoon because it was leaking. McCue said he could use a shovel to take solids out of the old lagoon and use his new truck to move them to the new lagoon, if Dan Schmidt would approve.

I asked about the report we had heard of nighttime movement of manure from the barn to the silage storage area. Dan replied that Ruben had been moving "wayback" the bedding and other material that is scraped from the barn floor. He was using a tractor spreader, not a truck. He put the wayback in the area where the store old silage. Dan said they bury dead cows there too. Dan said there may have been some manure in the pile either from the bedding, or manure that was left in the spreader. He suggested I talk with Galen Hopkins, who takes the waste for composting to verify that it wasn't fresh manure.

Dan said everything had been fine with Craig Leonard, the old Commissioner, but since Seth Bradstreet took over and hired Alan Hunter about four months ago, they had given McCue trouble. Dan said Alan Hunter says "no" to every option. Dan believes Alan is creating obstacles to the manure disposal, so he can justify closing the farm.

I asked Mr. McCue for permission to walk the farm and take photos. He was reticent and explained that he had been open to other inspectors and it had only made his predicament worse. He said his attorney had told him we were taking him to court on Monday. I said I couldn't make any statement about what EPA might do but that any information I collected would help us make a decision on how to proceed. He agreed to let me measure the freeboard on each lagoon and photograph the lagoons. He said I could photograph the plywood patch on the old lagoon, the road to the new lagoon and the pile of wayback (barn scrapings) and old silage that might contain manure. He also agreed that I

could take a sample from the wayback and old silage pile.

VI. Tour of Farm

Dan drove me around the farm in a pick-up truck. Mr. McCue stayed behind to work on arranging for manure shipment and financing. Dan took me to the new lagoon, where I measured the freeboard with a tape measure. Two panels are exposed, and each panel is 3 feet tall. I took photographs of the new lagoon and the road to the new lagoon. At the old lagoon, I measured the freeboard with a tape measure. It had eight inches of capacity. I looked at the plywood patches. There was no leaking at the time of the inspection, but I saw brown staining on the wall and on the ground right near the lagoon. There were puddles about 10 to 15 feet away which looked brown in color. (I took a photo.) I walked about 20 yards around the lagoon and saw no staining at that distance. Because the grass is so tall, a discharge could pass under the grass, without being visible from above.

We returned to the milk house at about 10:35. Before going in, I met Galen Hopkins, who takes the wayback and old silage waste for composting. I asked whether he had seen the pile recently and whether he knew its composition. He said the pile was wayback and old silage, with a little manure.

We returned to the milk house where I met with Mr. McCue again and verified the capacity of the lagoons and the cost of manure shipment to the sewage treatment plant.

Mr. McCue said he was finding Department of Agriculture and NRCS unwilling to consider any option he proposed. They rejected land application on fields that could have taken manure. He said he proposed twenty different lagoons he could rent, but Department of Agriculture said they didn't have plans for the lagoons.

We discussed the treatment plant option, and McCue said he might have to wait until Monday. I spoke with Tim LeVasseur on the telephone. LeVasseur runs the treatment plant in Waterville. He said he had never taken manure and it was so unusual, he wanted to hear from someone at EPA that the agency was actually ordering this. I said we had ordered Mr. McCue to empty his old lagoon; we had not told him how to do this. LeVasseur said he would take the manure if we needed him to. He said his was the largest plant in the area, and probably best equipped to take the manure, but he said he was worried. He had never taken manure, and he didn't have any samples to assess the BOD and TSS. I asked if samples would be helpful and he said it would, but it would take a few days to do the analysis.

Mr. McCue asked me if we would take him to court if he didn't load his truck and drive the waste to Kennebeck that very day. I said he should do what he needed to do to not discharge waste and I couldn't make any assurances about what EPA would do. I told Mr. McCue he should get samples to Kennebunk as soon as possible, because Kennebunk couldn't even take waste without an analysis for BOD and TSS. He said he didn't see why we needed to take him to court; he said he was doing everything "humanly possible."

Mr. McCue urged me to call Tom Shepherd, who is providing financing. (315) 439-4451 cell, or (888) 589-6455. I said I would not call before Monday.

I asked about progress on installing a pump to move waste from the barn to the new lagoon. Mr. McCue said he had been trying to find someone to install the pump to pipe waste to the new lagoon. He said he had the money lined up, but had not found someone to install the pump in the winter.

I then left Mr. McCue and rode with Dan to the silage storage area to look at the pile I had been told contained wayback and old silage, and possibly manure. We could not get close enough for me to take a sample because water was too deep. The pile is at the top of a hill above Martin Stream.

At 11:00, I said goodbye to Mr. McCue and Dan. As I left, Dan gave me a business card with his last name, Gantnier.



Photo of road leading to new lagoon, taken from new lagoon ramp, looking back at new barn.



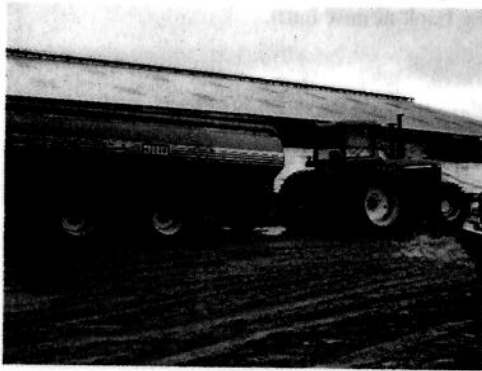
Photo of new lagoon from ramp, showing six feet of freeboard.



Spreader and tractor.



Truck with tank.



Tractor and spreader.



Old lagoon.



Old lagoon with about eight inches of capacity.



Plywood patches on leaks in old lagoon.



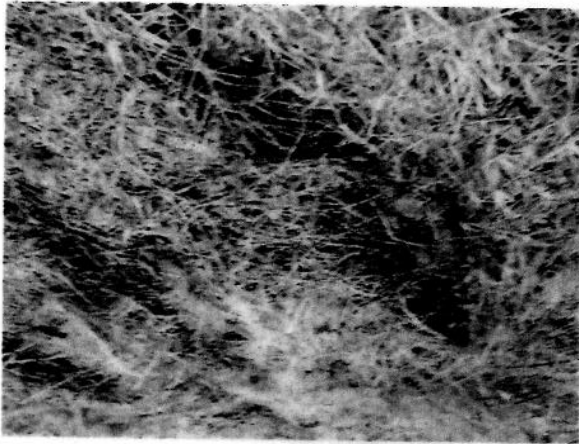
Manure on ground outside lagoon.



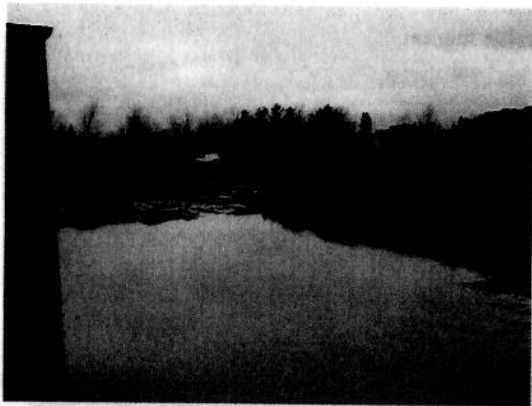
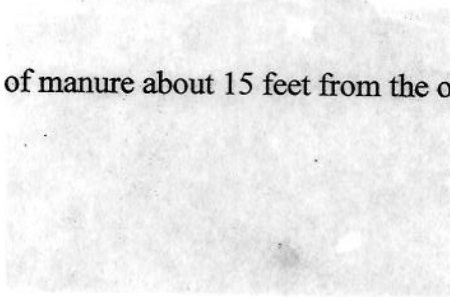
Staining due to past leaks in the old lagoon.



Manure outside lagoon.



Puddles with indication of manure about 15 feet from the old lagoon.



Pile of old silage, wayback (barn scrapings) and possibly manure. Car in distance is at the bottom of a hill. Martin Stream is beyond the trees



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

DATE: April 5, 2007

SUBJ: Country Acre Farm, Inc., Dixmont, ME
MEPDES CAFO Inspection, Conducted January 6, 2007

FROM: Denny Dart, EPA Region I, Water Technical Unit

TO: file

I. Background Information

- A. Date, Time of inspection: Friday, March 23, 2007, 10:15 AM
- B. Weather Conditions: Drizzly, foggy, about 57 degrees F.
- C. U.S. EPA Representative: Denny Dart
- D. NRCS Representative: Dan Schmidt
- E. Facility Representative(s): Carl McCue, Owner
Dan Gantnier, of Diesel Dan's Repairs (207) 341-2662
Galen Hopkins
- F. Phone number: Carl McCue, (207) 862-5290 (207) 862-2900
- G. Mailing Address: P.O. Box 758, Hampden, ME 04444
- H. Physical Address: Route 7, Dixmont, ME 04932
- I. Permit Number: ME0036821

II Purpose of Inspection

While in Maine for other business, I stopped at Country Acre Farms for a short site visit. to assess whether a discharge of manure was occurring or imminent, and to determine whether the company was making progress in complying with EPA's December 8, 2006 administrative order.

III. Entry Procedures

I showed my EPA inspector credentials to Carl McCue, Owner.

IV. Conversation with Site Representatives

I asked about the pile of "wayback", a combination of silage, bedding and manure that was stored at the top of a hill above Martin Stream. According to Mr. McCue, there are no plans to remove the pile until summer when they will use it for loam. He said they had installed a sand berm to prevent runoff.

We discussed the status on maintenance of the two lagoons. The leaks in the two lagoons had not been repaired since my January 6, 2007 visit. The following equipment needs to be purchased for the lagoons to function properly:

- Agitator for 10 foot lagoon
- Pump for 10 foot lagoon
- 2 tractors to run the pump
- 2 tractors to run the agitator

Mr. McCue said he has a tractor in the garage and could rent the other three for about \$4000.

V. Observations

I measured the freeboard on the old lagoon at 10 inches. It appeared that some wood boards had been added to try to staunch the manure leak. I observed the sand berm around the wayback pile and did not see any discharge.

VI. Conversation with Dan Schmidt of NRCS

Dan Schmidt arrived on site by coincidence and he told me he thought a short agitator could work on the new lagoon. He expected the new lagoon to be frozen until June and said it could not be used until the leaks were repaired. He said the leaks were the result of top loading and freezing and if the farm had installed the required bottom loading pump called for in the original design, the lagoon would not have leaked.

I asked when spreading starts in Maine and Dan Schmidt said farms typically begin spreading in early or mid May for corn. He said hay land can be fertilized after the first cutting in early June.

We discussed options for fields that might take manure from the Country Acres Farm, and farmers who had equipment for spreading.



United States Environmental Protection Agency
Washington, D.C. 20460

Water Compliance Inspection Report

Section A: National Data System Coding (i.e., PCS)

Transaction Code		NDPES	yy/mm/dd	Inspection Type	Inspector	Fac Type							
1	N	2		3	M E 0 0 3 6 8 2 1	11 12	0 7 0 1 0 6	17 18	=	19	R	20	3
Inspection Type Description													
Concentrated Animal Feeding Operation. Dairy Farm.													
Remarks													
21													
66													
Inspection Work Days		Facility Self-Monitoring Evaluation Rating		B1	QA	Reserved							
67	1	69	70	71	N	72	N	73		74	75		80

Section B: Facility Data

Name and Location of Facility Inspected (For industrial users discharging to POTW, also include POTW name and NPDES permit number) Country Acres Farm, Inc. Dixmont, ME	Entry Time/Date 7 : 3 0 A M 0 7 0 1 0 6	Permit Effective Date
	Exit Time/Date 1 1 : 0 0 A 0 7 0 1 0 6	Permit Expiration Date
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s)	Other Facility Data	
Name, Address of responsible Official/Title/Phone and Fax Number.	Contacted <input type="checkbox"/> Yes <input type="checkbox"/> No	

Section C: Areas Evaluated During Inspection (Check only those areas evaluated)

<input type="checkbox"/> Permit	<input type="checkbox"/> Self-Monitoring Program	<input type="checkbox"/> Pretreatment	<input type="checkbox"/> MS4
<input type="checkbox"/> Records/Reports	<input type="checkbox"/> Compliance Schedules	<input type="checkbox"/> Pollution Prevention	
<input checked="" type="checkbox"/> Facility Site Review	<input type="checkbox"/> Laboratory	<input type="checkbox"/> Storm Water	
<input checked="" type="checkbox"/> Effluent/Receiving Waters	<input checked="" type="checkbox"/> Operations & Maintenance	<input type="checkbox"/> Combined Sewer Overflow	
<input type="checkbox"/> Flow Measurement	<input type="checkbox"/> Sludge Handling/Disposal	<input type="checkbox"/> Sanitary Sewer Overflow	

Section D: Summary of Findings/Comments (Attach additional sheets of narrative and checklists as necessary)

SEV Codes	SEV Description

Name(s) and Signature(s) of Inspector(s)	Agency/Office/Phone and Fax Numbers	Date
Signature of Management QA Reviewer	Agency/Office/Phone and Fax Numbers	Date



United States Environmental Protection Agency
Washington, D.C. 20460

Water Compliance Inspection Report

Section A: National Data System Coding (i.e., PCS)

Transaction Code		NDPES	yy/mm/dd	Inspection Type	Inspector	Fac Type							
1	N	2		3	M E 0 0 3 6 8 2 1	11 12	0 7 0 3 2 3	17 18	=	19	R	20	3
Inspection Type Description													
Concentrated Animal Feeding Operation. Dairy Farm.													
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66													
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67	1	69	70	71	N	72	N	73		74	75		80

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Name and Location of Facility Inspected (For industrial users discharging to POTW, also include POTW name and NPDES permit number) Country Acres Farm, Inc. Dixmont, ME	Entry Time/Date 1 0 : 1 5 A 0 7 0 3 2 3	Permit Effective Date
	Exit Time/Date 1 : 0 0 P 0 7 0 3 2 3	Permit Expiration Date
	Other Facility Data	
Name(s) of On-Site Representative(s)/Title(s)/Phone and Fax Number(s) Carl McCue, Owner (207) 862-5290 (207) 862-2900 Dan Gantnier, of Diesel Dan's Repairs (207) 341-2662		
Name, Address of responsible Official/Title/Phone and Fax Number. Carl McCue, Owner (207) 862-5290 (207) 862-2900		

Section C: Areas Evaluated During Inspection (Check only those areas evaluated)

<input type="checkbox"/> Permit	<input type="checkbox"/> Self-Monitoring Program	<input type="checkbox"/> Pretreatment	<input type="checkbox"/> MS4
<input checked="" type="checkbox"/> Records/Reports	<input checked="" type="checkbox"/> Compliance Schedules	<input type="checkbox"/> Pollution Prevention	
<input checked="" type="checkbox"/> Facility Site Review	<input type="checkbox"/> Laboratory	<input type="checkbox"/> Storm Water	
<input checked="" type="checkbox"/> Effluent/Receiving Waters	<input checked="" type="checkbox"/> Operations & Maintenance	<input type="checkbox"/> Combined Sewer Overflow	
<input type="checkbox"/> Flow Measurement	<input type="checkbox"/> Sludge Handling/Disposal	<input type="checkbox"/> Sanitary Sewer Overflow	

Section D: Summary of Findings/Comments (Attach additional sheets of narrative and checklists as necessary)

SEV Codes	SEV Description

Name(s) and Signature(s) of Inspector(s)	Agency/Office/Phone and Fax Numbers	Date
Signature of Management QA Reviewer	Agency/Office/Phone and Fax Numbers	Date

notes in black pen added after inspection.

1-6-07 8AM 57° F raining

Observed Martin Stream.

Truck leaving barn, crossing street.

Strong smell of urine near McCue's barns.

8:20 Entry - showed I.D. to ~~Dave~~ Mark Jordan, who called Mr. McCue. While waiting for Mr. McCue, spoke to Diesel Dan - Diesel Dan's repair. He said:

We bought \$100K of equipment 3 months ago to be able to spread. We have 800 acres. They done soil test on these field Mr McCue, Mark Jordan took the samples. In mid-November they did spread Flood's land and some fields up the road, behind Troy Center Rd. We have fields we could use in Etha - Ken Coulds. David Leavitt has fields & wanted them spread but ag said "no". Alan Hunter at state ag is the trouble. Alan Hunter was yelling at Pete Ingeraldi, who works for Mr. McCue. Pete's kid was in the tractor. "Mr Diesel" went to Alan Hunter and told him not to threaten farm workers and told him to call Mr. McCue. There's long history between Mr. McCue & Mr. Hunter.

Tom Shepherd, the financier, stopped giving money.

Some people like liquid. If they plan to plow, farmers prefer solids.

Mr. Diesel showed Mr. McCue around to lots of farms that needed manure

Farms that could take manure;

Mr. Todd Alan - has ~160 acres hay
his fields haven't been spr

David Leavitt - ~100 acres hay, reseeds
he uses other peoples' field
harrows & seeds

Ken Gould - 100+ acres

Seth Gradstreet - has the vendetta ag
Carl. He's commissioner or something

McKenzie - a farmer who would take
manure.

Kurt Davis - a farmer who would take
manure

Ron Biouac, farmed by Kurt Davis

Doug Woodward has ~100 acres for horse

A couple came in yesterday from New
York to see about investing - contact
of Tom Shepherd.

They bought a truck yesterday to
haul manure.

Just recently, U of Maine did soil
samples. Date on boxes? No. Maybe
3 weeks ago.

9:00 - Mike Lima & Mike McCue arrived.

~~E~~ Mike ~~Lima~~, works as consultant
Mr McCue - a couple days ago.
"Took samples."
"all samples back. No phosphorus"

History: tried to use new lagoon last fall
but NRCS stopped him because of a
leak.

Mr. McCue got a loan for equipment
from Mr. Shepherd for spreading
equipment > \$100K - tractor made to
spread, a big spreader. No one in the
area has that. (3 days before Thanksgiving)

Mr. Shepherd took the ^{one} other Cuders
~~the~~ (Pioneer) notes.

They did lots of spreading. They scraped
roads.

late Nov - revoked licence.

~~Dec 4~~

Dec 1 - no variance for Mr. McCue.
everyone else got them.

Alan Hunter saw Mr McCue spreading
twice, but Mr. McCue says it was of
mostly water, not potent. Mr. McCue
didn't sample as he applied manure.

Jonathan —, Alan Hunter's predecessor
said McCue could ~~do~~ dump as long
as they didn't agitate.

Diesel Dan:

Alan Hunter lied at the hearing, saying it had never been emptied. Diesel Dan showed pictures.

Mr. McCue showed Alan Hunter all the fields where they had not yet sprayed. Diesel Dan burned 1/2 tank gas. This was early December.

Seth Bradstreet was renting 140 acres to McCue. McCue planted corn. Seth B was chairman of board at the time. Mr. McCue applied for govt help, but Mr. Bradstreet claimed the corn was his, and therefore wanted the payment. McCue appealed to Wash D.C. & they ordered Mr. Bradstreet to pay Mr. McCue. This was only last spring.

(207) 692-3172

Brian Wright is a well respected local farmer who offered to do the spray. Seth Bradstreet admitted to Brian Wright 2-3 weeks ago that he had promised to put McCue out of business.

McCue sampled all the fields
He is going to update his NMP (he sent
the copy to Doug Koopman). He has
hired a person,

→ I asked Mr. McCue to provide the soil
samples as soon as possible

Mr. McCue - "why did Shelly Doak send
the revoked licence notice to Seth Bradstreet?
I lost my financing."

Looking to send some liquids to Kennebeck.
to sample. Would only take one load
per day.

Old lagoon - ^{later verified 8" freeboard in old lagoon} ~6" from top - ~2 million.
New lagoon - ^{later verified 60% capacity} ~half full & 2 million
400 cow capacity at each lagoon for 1 year.
336 cows right now.

A farmer will rent his lagoon on Monday
Carl Smith (raises young stock)
His lagoon holds 1 million gallons
In Newport. Waiting on insurance.

Bought a new ^{used} truck yesterday to haul
manure from new barn to new lagoon.
milk house waste still going to new pit
~1500-2000 gal

Would need to bring it down to half
to make it through winter (leak is
in tank head)

NRCS - Dan Smith - won't let them
take solids from the old lagoon
and put it in the new lagoon.

would shovel ^{solids} # out with an
excavator & put it in the new lagoon

Night work:

Wed ~~night~~, 2-3 pm, Ruben moved
way back from the barn with a tractor
& spreader. Put it in the area w/
old silage. (Bury cows there too.)

Galen Hopkins composts it.

There might have been manure in
the spreader or in the way back.
They scoop out barns with the skid
steer.

Craig Leonard - old commissioner
everything was OK.

Seth Bradstreet took over & now there's
troubled Alan Hunter only at
ag for ~ 4 mo.

Diesel Dan "He's been creating obstacles, saying
"no" to every option.

10.10 - field observation

photo 1 - old lagoon from barn side
photo 2 - new lagoon

3 - "

4 - "

5 - new spreader equip truck # 1

6 - " truck # 2

7 - " truck # 3

8 -

9 } old lagoon

10 }

11 }

12 }

drove road to new lagoon in a
pick up with Diesel Dan

measured new lagoon freeboard - 6 feet
capacity

field
notes
(could not
write outside
because
rain.)

measured old lagoon freeboard. 8" inc

Mr. Galen Hopkins - takes wayback

Back at McInnes office in milkhouse

Dan Smith said they could not put
manure from old lagoon in new lagoon
because of seal problem.

Sewerage to Kennebec would cost
6.2 cents/gallon
\$400 to truck 5000 gal.

New lagoon capacity is 180 days for 400
cows.

10ft deep, currently 6 feet available

"I'm already under order. I'm doing
everything humanly possible. I've
talked to 20 farmers w/ pits, but they
don't have plans."

If they'd had variance on Dec. 1, there
would be no problems right now.

a couple of inches could be saved by
sending to Kennebec.

I gave permission to wait until Mond

Call Tom Shepherd ^{cell} (315) 439-4451
1 (888) 589-6455
[could get pump in by April - has \$, but
can't get someone to install]

spoke to

Tim LeVasseur, at Waterville. He said
he can't take manure

Before leaving, went up to wayback/silage
pile. I could not get access to take a sample.
Truck was up to axels in water. Took photos.

Left at 11:00 am.

Denny Dart Field Notebook

3/23/07 10:15 AM

Country Acres Farm

~~At~~ Showed credential
used photos for discussion

Carl McCue
Galen Hopkins
Dorel Dan

Discussed wayback pile.

Can't not planning to remove
pile - roads are posted.

The wayback will be taken
away this summer when
it can be used for again.

In the time being, they are
putting up a sand berm.

I looked at the sand berm
There's no current run-off.
See photos.

9100157

discussed old pit.

Can't currently move
plywood because of ice.

"Skigells are afraid to let
Carl use their land because
DAFER has talked them out
of it."

"Acceptance of old soil samples"

"Why can't they accept the
old plan & just amend
it?"

May have trouble agitating
new lagoon because it's
so deep.

Will need

agitator for 10' lagoon
pump for 10' lagoon
tractor to run spreader
2 tractors to run pump.
2 tractors to run agitator

have 1 tractor in garage
have Ford tractor
rent 3. ~\$4000

leave permission for us to come any time.

fireboard is 10" repaired crack w/ 2x4s

question - does the old order still apply?

How about NPDs permit?

question - how do we get soil samples approved

Conversation w/ Dan Schmidt.

Dan - a new agitator (I saw it).

The short agitator will work in new lagoon, according to Dan Schmidt

how much manure?

send Doug to help calculate

"New lagoon could be frozen into drive"

Dan.

New lagoon is designed to be bottom loaded, but never installed pump. Because of pump, never get freezing.

Normally apply in early or mid May for corn.

After first cutting in late June, can apply to hay land.

* How about Carl Smith
May 1 - has good samples
400 acres
13 mi - cost

Roger Whitney has
big tanks, could do
the job.



"Doak, Shelley"
<Shelley.Doak@maine.gov>

01/23/2007 02:45 PM

To Margery Adams/R1/USEPA/US@EPA, "Merrill, Dennis L"
<Dennis.L.Merrill@maine.gov>
cc Edie Goldman/R1/USEPA/US@EPA, Douglas
Koopman/R1/USEPA/US@EPA, Denny
Dart/R1/USEPA/US@EPA

bcc

Subject RE: Case Opening Documents

Thanks for the heads up. I would very much like to see any press release before it goes out. We do not have an official press person. I would typically talk with our Deputy Commissioner who will want to review this as well. I did talk with DEP press folks as well as the Bureau Director, Andy Fisk. I forwarded your entire email/documents to them. Thanks!

-----Original Message-----

From: adams.margery@epamail.epa.gov
[mailto:adams.margery@epamail.epa.gov]
Sent: Tuesday, January 23, 2007 1:06 PM
To: Merrill, Dennis L; Doak, Shelley; dan.schmidt@me.usda.gov
Cc: goldman.edie@epamail.epa.gov; koopman.douglas@epamail.epa.gov;
Dart.Denny@epamail.epa.gov
Subject: Fw: Case Opening Documents

We notified Cliff Goodall today at noon that we had filed a complaint in federal court. Attached is a PDF copy of the complaint (exhibit A is the CAFO permit). If you get questions on the complaint from McCue, please refer him to us, and please don't get drawn into conversation about the pros and cons of the complaint.

We are working on a press release, which will probably go out tomorrow, announcing the filing of the complaint. We'll coordinate closely with your press people. (I have Dennis' press contacts at DEP).

The release will emphasize the extraordinary risks posed here and the cooperative effort between state and federal agencies -- call us if you have questions.

Thanks
Margery

----- Forwarded by Margery Adams/R1/USEPA/US on 01/23/2007 01:05 PM

Edie
Goldman/R1/USEPA
/US

01/22/2007 05:23
PM

To
Margery Adams/R1/USEPA/US@EPA
cc

Subject
Fw: Case Opening Documents

